

*Vivian A. Houghton*

*Attorney at Law*

Vivian Houghton \*

Eva Candeloro, Of Counsel ◇

800 West Street  
Wilmington, DE 19801

(302) 658-0518  
(302) 658-5731 (fax)

February 26, 2007

The Honorable Gregory M. Sleet  
United States District Court  
844 North King Street  
Lock Box 19  
Wilmington, DE 19801

**Re: Delaware Audubon Society et al v. Dirk Kempthorne, Secretary of the  
United States Department of the Interior et al,  
C.A. 06-223-Updated Status Report**

Dear Judge Sleet:

Plaintiffs filed this action on April 5, 2006, and shortly thereafter Defendants approached the Plaintiffs to negotiate a settlement. Since August 2006, the Defendants have been representing to the Court that the parties had entered into a settlement in principle, and in their Status Report dated January 5, 2007, that the parties had "successfully negotiated a settlement" of this matter. As late as February 8, 2007, Defendants informed this Court that settlement and dismissal of this case was imminent. The Plaintiffs did not object to these representations because they believed that a settlement had in fact been reached and memorialized in a Settlement Agreement finalized on December 10, 2006 and were simply awaiting signature by the Defendants.

On February 15, 2007, Defendants' counsel generally informed Plaintiffs that the Department of the Interior had a problem with the Settlement Agreement. On February 21, 2007 Defendants' counsel explained that the Department of the Interior could not agree to one of the terms of the December 10, 2006 Settlement Agreement – a term that the government itself had proposed during settlement negotiations and that is essential to the Plaintiffs willingness to settle this matter. The government's February 21, 2007 proposal to revise the Settlement Agreement attempts to eliminate the term from the settlement. It therefore appears to Plaintiffs that the government's previous representations that a settlement had been reached and "successfully negotiated" were inaccurate (if for no other reason than the Department of the Interior had apparently not approved all terms of settlement), and that there is no settlement in this case.

Given this unfortunate turn of events, the Plaintiffs will be moving shortly for entry of a default judgment given the government's failure to answer or otherwise plead.

**We are a Federally designated Debt Relief Agency under the United States Bankruptcy Laws. We assist people with finding solutions to their debt problems, including, where appropriate, assisting them with the filing of petitions for relief under the United States Bankruptcy Code.**

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Vivian A. Houghton". The signature is fluid and cursive, with the first name "Vivian" and last name "Houghton" clearly distinguishable.

Vivian A. Houghton, Esquire  
Attorney for Plaintiffs

VAH/pm